

REMARKS

Claims 3-17, 35, 38, 46 and 49-58 are pending and under examination. Claims 3, 5 and 9 have been amended. Claims 4 and 6-8 have been cancelled without prejudice to Applicants' right to pursue the cancelled subject matter in a future application claiming the benefit of priority of the above-identified application. No new matter has been to claims 3, 5 and 9 by virtue of the amendments, which serve to incorporate subject matter of the cancelled base claims (claim 3) and update antecedent basis (claims 5 and 9). Entry of the amendments is respectfully requested.

Regarding 35 U.S.C. § 112, First Paragraph (Written Description)

Applicants respectfully traverse the rejection of claims 3-17, 34-35, 38, 46 and 49-58 under 35 U.S.C. § 112, first paragraph, for allegedly containing subject matter not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, had possession of the claimed invention at the time the application was filed. Applicants respectfully submit that this rejection has been rendered moot by virtue of the amendments to base claim 3. The rejection has further been rendered moot with regard to cancelled claims 4 and 6-8. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 3, 5, 9-17, 34-35, 38, 46 and 49-58 under 35 U.S.C. § 112, first paragraph, for allegedly containing subject matter not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, had possession of the claimed invention at the time the application was filed.

Regarding Obviousness Type Non Statutory Double Patenting

The rejection of claims 1-17, 34-35, 38, 46 and 49-58 on the ground of non-statutory double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 7,067,621 is respectfully traversed. This rejection has been rendered moot with regard to cancelled claims 4 and 6-8. Applicants respectfully request that this rejection be held in abeyance until there is an indication of allowable subject matter at which time Applicants will file a Terminal Disclaimer, if appropriate.

Regarding 35 U.S.C. § 102

Applicants respectfully traverse the rejection of claims 3-10, 34 and 46 under 35 U.S.C. § 102(b) as allegedly being anticipated by Hellstrom *et al.*, U.S. Patent No. 4,997,913. Applicants respectfully submit that this rejection has been rendered moot by virtue of the amendments to base claim 3. The rejection has further been rendered moot with regard to cancelled claims 4 and 6-8. Accordingly, Applicants respectfully request removal of the rejection of claims 3, 5, 9-10, 34 and 46 under 35 U.S.C. § 102(a) as allegedly being anticipated by Hellstrom *et al.*, U.S. Patent No. 4,997,913.

Applicants respectfully traverse the rejection of claims 3-6, 10 and 46 under 35 U.S.C. § 102(a) as allegedly being anticipated by Garsky *et al.*, J. Med. Chem. 44:4216-4224 (2001). Applicants respectfully submit that this rejection has been rendered moot by virtue of the amendments to base claim 3. The rejection has further been rendered moot with regard to cancelled claims 4 and 6-8. Accordingly, Applicants respectfully request removal of the rejection of claims 3, 5, 9-10, 34 and 46 under 35 U.S.C. § 102(a) as allegedly being anticipated by Hellstrom *et al.*, U.S. Patent No. 4,997,913.

Applicants respectfully traverse the rejection of claims 3, 4, 9, 35 and 46 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,635,740. Applicants respectfully submit that this rejection has been rendered moot by virtue of the amendments to base claim 3. The rejection has further been rendered moot with regard to cancelled claim 4. Accordingly, Applicants respectfully request removal of the rejection of claims 3, 9, 10, 35 and 46 under 35 U.S.C. § 102(a) as allegedly being anticipated by U.S. Patent No. 6,635,740.

CONCLUSION

In light of the amendments and remarks herein, Applicants submit that the claims are now in condition for allowance and respectfully request a notice to this effect. The Examiner is invited to call the undersigned attorney if there are any questions.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

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